

HOUSE No. 300

The Commonwealth of Massachusetts

PRESENTED BY:

Angelo M. Scaccia

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act regulating managers of condominiums.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Angelo M. Scaccia	14th Suffolk
Barbara Hopwood	37 Victoria Heights Rd. Hyde Park, MA 02136

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 317 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT REGULATING MANAGERS OF CONDOMINIUMS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 13 of the General Laws, as appearing in the 2002 Official Edition, is
2 amended by adding after section 97 the following 4 sections:-

3 Section 98. There shall be a board of registration of condominium managers as defined
4 by chapter 183A, in this section and in sections 99 to 101, inclusive, called the board, to be
5 appointed by the governor, with the advice and consent of the council, consisting of 5 members,
6 citizens of the commonwealth, 3 of whom shall be condominium owners with one representative
7 of an association with less than 100 units and 1 of whom shall be a member of the Community
8 Associations Institute. At least 1 of the appointees shall be a condominium manager. The
9 governor shall designate the chairman. As the term of office of a member of the board expires,
10 his successor shall be appointed by the governor, with like advice and consent, to serve for 5
11 years. Each member shall be eligible for reappointment and shall serve until the qualification of
12 his successor. The governor may also, with like advice and consent, fill any vacancy in the
13 board for the unexpired portion of the term.

14 Section 99. The board shall hold at least 4 regular meetings each year and may hold
15 special meetings as required. Time, place and notice of all meetings shall be as required by rules
16 or by-laws made by the board. A quorum shall consist of 3 members. In case of vacancy in the
17 office or absence of the chairman the senior member shall perform the duties of the chairman. A
18 written record which shall be open to public inspection shall be kept of all meetings and of the
19 business transacted thereat.

20 Section 100. The board may make such rules or by-laws, not inconsistent with law, as it
21 may deem necessary in the performance of its duties. The board shall have a seal. The board
22 shall annually render to the governor and the general court a report of its proceedings, which
23 shall include an itemized statement of all receipts and expenses of the board for the year.

24 Section 101. Each member of the board shall serve without compensation, but shall be
25 paid by the commonwealth the expenses necessarily incurred by him in the discharge of his
26 official duties. The board may, subject to chapter 31, employ a secretary and such other clerical
27 and technical assistants as may be necessary to discharge its official duties, shall establish their
28 duties, and, subject to the provisions of sections 45 to 50, inclusive, of chapter 30, shall fix their
29 compensation which shall be paid by the commonwealth. The commonwealth shall provide the
30 board with adequate office space and shall pay the expenses of the board incurred in the
31 performance of its duties.

32 SECTION 2. Chapter 112 of the General Laws, as appearing in the 2002 Official Edition is
33 amended by adding after section 226 the following 5 sections:-

34 Section 227. As used in sections 228 to 231, inclusive, the following words shall have
35 the following meanings:-

“Board”, the board of registration of condominium managers established pursuant to section 98 of chapter 13.

“Community Association”, shall mean an organization of condominium unit owners as defined in section 1 of chapter 183A.

“Condominium Manager”, shall mean a manager as defined in section 1 of chapter 183A.

“Division”, the division of registration.

Section 228. (a) No person shall manage or hold himself out to the public as being able to perform provide, or render management or administrative services to a community association, including but not limited to; preparation of budgets and other financial documents; the collecting, controlling, disbursing, accounting or custody of common funds; obtaining insurance; conducting meetings of the organization of unit owners; arranging for and coordinating maintenance and repair; or otherwise overseeing the day to day operations of the condominium for the community association unless licensed by the board in accordance with this section and sections 229 to 231, inclusive.

(b) Each applicant for a license as a condominium manager shall furnish the board with proof of satisfactory completion of the educational, training and experience requirements for licensure, including completion of an approved program of work experience and proof of having passed a licensing examination approved by the board.

Applications for licenses and renewals thereof shall be submitted in accordance with procedures established by the board. Pursuant to section 3B of chapter 7, the secretary of administration and finance shall ensure that a licensing fee shall be charged to all applicants in an amount sufficient

to defray all administrative costs to the commonwealth associated with the licensure of condominium, but in no event shall the fee be less than \$100.

The board shall license as a condominium manager an applicant who meets the requirements set forth in this section. Said board shall issue to a condominium manager a license.

(c) A license shall be issued for a period of two years and shall be renewable on or before the last day of the month in an even-numbered year. Each licensee shall pay to the board a license fee or renewal fee, as appropriate, which shall be set by the secretary of administration and finance. The renewal month shall be determined by the division to facilitate efficient completion of all renewal requests and avoid backlog. The renewal of a condominium manager license shall be contingent upon compliance with the continuing education requirements and standards of practice as determined by the board and defined by rules and regulations.

(d) To be eligible for licensure as a condominium manager, an applicant shall:-

(i) be of good moral character;

(ii) have successfully completed high school or its equivalent;

(iii) has successfully completed all pre-licensure education requirements approved by the board;
and

(iv) have passed a written or electronic competency examination offered or approved by the board; provided further that such examination must demonstrate that the applicant has a fundamental knowledge of state and federal laws relating to the operation of all types of

condominiums as defined in chapter 183A, proper preparation of community association budgets, proper procedures for noticing and conducting community association meetings, insurance matters relating to community associations and management skills; and

(v) pay the appropriate fee set by the secretary of administration and finance.

Section 229. Upon payment to the board of a fee and the submission of a written application provided by said board, the board shall issue a condominium manager license to a person who holds a valid license or registration issued by another jurisdiction which has standards substantially equivalent to or exceeding the standards of the commonwealth, as determined by said board.

Section 230. The board shall establish procedures for the filing of complaints regarding home inspectors who are subject to requirements for licensure.

A licensed condominium manager engaged in the practice of managing a condominium shall secure, maintain and file with the board satisfactory proof of a certificate of an errors and omissions policy which shall be in a minimum amount of \$250,000 in the aggregate. Every proof of an errors and omissions policy shall stipulate that cancellation or nonrenewal of the policy shall not be effective until at least ten days' notice of intention to cancel or not renew has been received in writing by the board. No condominium manager may manage a condominium unless his performance of the inspection is covered by an errors and omissions policy of at least \$250,000 in the aggregate. Such proof shall be deemed satisfactory if the policy is carried by the licensed company, partnership or franchise for which the condominium manager is a contracted employee and the condominium manager is specifically covered by such policy.

A licensed condominium manager and shall promptly report to the insurance company any complaint filed against either the condominium manager or the condominium manager's company in a court of competent jurisdiction when the claim in the complaint is greater than the deductible on the condominium manager's errors and omissions insurance policy.

Said board shall investigate all complaints filed with the board relating to the proper practice of condominium management and all complaints relating to a violation of this chapter or any rule or regulation of said board.

Said board may, by a majority vote, after a hearing held subject to chapter 30A, deny, refuse renewal, limit, suspend or revoke the license of a condominium manager upon proof to the satisfaction of the board that the holder thereof has:-

(1) committed fraud or misrepresentation in obtaining a license;

(2) been guilty of criminal conduct which the board determines to be of such a nature as to render such a person unfit to practice as a licensed condominium manager, as evidenced by criminal proceedings which resulted in a conviction, guilty plea or plea of nolo contendere or an admission of sufficient facts;

(3) failed to report a claim forthwith to the insurance carrier as provided in this section;

(4) violated any rule or regulation of the board;

(5) failed to fulfill any continuing education requirements set out by the board;

(6) violated any ethical standard which the board determines to be of such a nature as to render such person unfit to practice as a condominium manager or associate condominium manager, such as:-

(i) attempting to limit liability for negligent or wrongful errors or omissions by use of a clause within a performance contract that limits the cost of damages for negligent or wrongful errors or omissions; or

(ii) managing a condominium without the appropriate errors and omissions insurance coverage.

Section 231. The board may, by a majority vote and upon determination made after a hearing pursuant to chapter 30A, find that a condominium manager is liable for a violation of the provisions of sections 228 to 230, inclusive, and may impose the following fines and penalties:-

(1) suspend, revoke, cancel or place on probation the license of the condominium manager;

(2) reprimand or censure the licensee;

(3) order the licensee to complete continuing education or training or both as a condition of retention or future consideration or reinstatement of such license;

(4) order the licensee to participate in a drug or alcohol rehabilitation program or undergo drug testing or both as a condition of reinstatement of such license;

(5) order the licensee to practice under appropriate supervision for a period of time to be determined by said board as a condition of retention of future consideration of reinstatement of such license;

(6) order financial restitution, where appropriate; and

(7) assess an administrative penalty of not more than \$1,000 for each violation.

Whoever, not being licensed as a condominium manager, holds himself out as such or whoever, being licensed, impersonates another condominium manager or violates any rule or regulation made by said board and renders services as a condominium manager, may be assessed a civil penalty of not more than \$5,000 for each violation. Such civil penalty may be assessed by the board after hearing and may be enforced by the courts of the commonwealth.

No action by a condominium manager for recovery of a fee for the performance of such services shall be maintained in the courts of the commonwealth unless the individual who performed the inspection was duly licensed at the time the fee was earned. An appeal of a license suspension, revocation, cancellation or other discipline shall be made to the superior court based solely on the administrative record compiled at the board hearing.

SECTION 3. Chapter 183A of the General Laws as appearing in the 2002 Official Edition is amended, in line 56, by inserting after the word “owners”, the following words:-

; provided further that any such person or entity who performs or renders such management or such administrative services shall be a licensed condominium manager licensed pursuant to section 227 to 231, inclusive of chapter 112.